

**Board of Contract Appeals**  
General Services Administration  
Washington, D.C. 20405

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May 18, 2004

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GSBCA 16365-TRAV

In the Matter of FRANK A. CONDINO

Frank A. Condino, Athol, MA, Claimant.

Rick Miller, Civilian Travel and Overseas Allowances, Compensation and Legislation Division, Office of the Chief of Staff, Department of the Air Force, Washington, DC, appearing for Department of the Air Force.

**DANIELS**, Board Judge (Chairman).

When an employee assigned to a temporary duty site travels on non-workdays to a location other than his permanent duty station, the Government must reimburse him for lodging costs he incurred at that location, up to the maximum amount allowed at the temporary duty site.

Background

This issue was raised by Frank A. Condino, an employee of the Department of the Air Force. The Air Force assigned Mr. Condino to temporary duty in Huntsville, Alabama, for the period from January 19 to 30, 2004. While in Huntsville, Mr. Condino stayed with relatives and properly did not ask the Air Force to reimburse him for lodging expenses. After work on Friday, January 23, Mr. Condino drove at his own expense approximately 250 miles to Tunica, Mississippi, where he spent two nights in commercial lodging. He then returned to Huntsville on the evening of Sunday, January 25, and completed his temporary duty assignment.

The employee and the agency disagree as to the responsibility for the cost of lodging in Tunica. Mr. Condino maintains that the agency should pay for the cost, limited by the maximum amount allowable for lodging at Huntsville, his temporary duty site. He points to section C4555-A.1 of the Defense Department's Joint Travel Regulations (JTR), which states, "If an employee obtains lodging outside the area covered by the TDY [temporary duty] location per diem rate because of personal preference or convenience, the allowable per diem shall be limited to the maximum per diem rate prescribed for the TDY location." JTR C4555-A.1 (Jan. 2004).

The Air Force contends that the employee should incur the cost of lodging at Tunica. It relies on JTR C4563-E, which states, "Employees on TDY who travel for personal reasons on nonworkdays from a TDY site to locations other than their homes or PDSs [permanent duty stations] are entitled to per diem or AEA [an actual expense allowance] for the nonworkdays up to the amount payable had they remained at the TDY site." The Air Force believes that this provision is more relevant than the one cited by Mr. Condino, for the latter provision is entitled "Lodging at a TDY Location" and therefore does not speak to a situation like Mr. Condino's in which the lodging is at a location distant from the temporary duty site.

#### Discussion

The Air Force is correct in asserting that section C4563-E is more relevant to the situation at issue. We do not see that provision as mandating the result that the agency suggests, however. The "amount payable had [the employee] remained at the TDY site" is not the amount payable for any nights of the temporary duty assignment other than the ones for which the employee seeks payment. The JTR does not require an employee who stays with friends or relatives for some nights of a temporary duty assignment to stay with those individuals for all nights of the assignment. Each night is separate, and reimbursement for lodging costs on the night must be assessed separately. See JTR C4553-C (generally, reimbursement for lodging per day "may not exceed actual lodging costs up to the applicable maximum amount"); 41 CFR 301-11.21(a) (2003) (no distinction between reimbursement for lodging expenses incurred on workdays and non-workdays as long as employee is on travel status). The reimbursement for lodging costs Mr. Condino incurred on each of his nights in Tunica is therefore the amount for which the Air Force would have been responsible had he incurred those costs in Huntsville.

In support of its position that this conclusion is not appropriate, the Air Force analogizes Mr. Condino's situation to that of an employee who voluntarily returns home on non-workdays while on an extended temporary duty assignment. The JTR require that for such an employee, the agency must limit reimbursement to the cost which would have been incurred had the employee remained at the temporary duty site. One of the expenses used in examples shown for constructing that would-have-been-incurred cost is the actual lodging expenses incurred by the employee at the site. JTR C4677. Although this suggestion is creative, it is not compelling. Several other examples given by the JTR for computing reimbursement of costs actually incurred by employees on temporary duty assignments show that reimbursement for lodging costs is on a day-by-day basis – if an employee stays in a commercial facility on some nights, in Government quarters on others, and with friends or relatives on still others, reimbursement is calculated differently for each night. JTR C4565.

#### Decision

The claim is granted.

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STEPHEN M. DANIELS  
Board Judge